

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DIANE BARTHOLOMEW and MICHAEL
SHERRY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

No. 2:19-cv-00695-JLB-MRM

LOWE'S HOME CENTERS, LLC, d/b/a
LOWE'S,

Defendant.

ORDER

This case is before the court on Plaintiffs' Motion To Strike Certain Affirmative Defenses (Doc. 65). Defendant filed a response in opposition on June 1, 2020 (Doc. 71). On September 15, 2020, the assigned United States Magistrate Judge issued a Report and Recommendation (Doc. 81), recommending that Plaintiffs' motion be **granted in part and denied in part**. No party has filed an objection to the Report and Recommendation, and the time in which to do so has now passed. See 28 U.S.C. § 636(b)(1); Fed R. Civ. P. 72(b); M.D. Fla. R. 6.02(a). Upon de novo review of the file and for the reasons stated in the Report and Recommendation, it is hereby ORDERED:

1. The Report and Recommendation of the Magistrate Judge (Doc. 81) is ADOPTED as the opinion of the Court.

2. Plaintiffs' Motion To Strike Certain Affirmative Defenses (Doc. 65) is **GRANTED IN PART** and **DENIED IN PART** as follows: (a) Plaintiffs' motion is

GRANTED as to Affirmative Defenses Nos. 2 and 9, and those defense are **STRICKEN WITHOUT PREJUDICE**; (b) Plaintiffs' motion is **DENIED** as to Affirmative Defense Nos. 1, 10, 11, 12, 13, and 14, and the Court instead will construe those defenses as denials; and (c) Plaintiffs' motion is **DENIED** as to Affirmative Defenses Nos. 4, 6 and 8.

3. Defendant is granted leave to amend Affirmative Defenses Nos. 2 and 9. Should Defendant choose to amend said Affirmative Defenses, its amended answer must be filed no later than October 20, 2020.

ORDERED in Fort Myers, Florida the 13th day of October 2020.

A handwritten signature in black ink, reading "John L. Badalamenti". The signature is written in a cursive, flowing style with a horizontal line underneath it.

JOHN L. BADALAMENTI
UNITED STATES DISTRICT JUDGE